IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMPANY APPLICATION NO.98 OF 2006
IN
COMPANY PETITION NO.1057 OF 2001

Aarti Cable and Compounds Pvt. Ltd. Applicant

versus

Sanjeev Garg Respondent

Mr.B.L.Gandhi with Mr.K.C.Pandey for applicant.

Mr.P.V.Shah for respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 10th March 2006

PC :

1. Heard learned counsel for applicant in support of this application preferred by respondent company to set aside an ex-parte order of winding up.

2. It is pointed out that on the relevant date although the name of the advocate appeared on the board along with the appearance of petitioner, the clerk of advocate forgot to inform him and therefore, he did not remain present. The

contention is that for the fault of advocate's clerk the company should not suffer and it should get an opportunity to present it's version on merits as ex-parte winding up order is a drastic order.

3. Request to restore the original petition by setting aside the winding up order is opposed by the respondent and he points out that against this applicant company there are number of applications for winding up pending and/or filed in this Court. In these circumstances, he submits that no leniency should be shown and the company application be dismissed.

4. Having perused the application and annexures thereto along with order passed by this Court, in my view, interest of justice would be served if the order of winding up is set aside on the condition that the applicant- original respondent herein deposits in this Court the principal sum of Rs.1.75 lakh (Rs.One lakh seventy five thousand only) within a period of four weeks from today. Needless to state that the deposit would be without prejudice to the rights and contentions of both sides in the petition. The applicant's advocate to intimate the office of

the date of such deposit and produce proof in support thereof and on such steps being taken, the office to restore the company petition to its original number and place it for final hearing. Needless to state that if the amount is not deposited within the time stipulated above, the order of winding up stands and this application to stand dismissed without further reference to this Court. In case the amount is deposited, then not only this company petition but Company petition No.1058 of 2001 shall also stand revived and restored to file to be heard together with Company Petition No.1057 of 2001.

(S.C.DHARMADHIKARI, J.)